IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8027 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KHAMAR KAUSHIKBHAI CHHOTALAL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8027 of 2001

HL PATEL ADVOCATES for Petitioner No. 1-5

MR PR ABICHANDANI, A.G.P. for Respondent No. 1-2

MR AMIT M PANCHAL for Respondent No. 3

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 28/06/2002

ORAL JUDGEMENT

1. Rule. Learned A.G.P. Shri P.R.Abichandani, waives service of Rule on behalf of respondents No.1 & 2 and Shri Amit Panchal appeared and waived service of Rule for Respondent No.3 Talod Municipal Borough.

2. At the joint request of the learned Counsel for the parties this matter is heard and finally disposed of

today.

3. The petitioners have challenged in this petition the impugned resolution (Annexure : F) dated 31.1.2001 passed by the Talod Municipal Borough.

4. Learned Counsel Shri Vijay Patel for the petitioners relying upon Rule : 3 of the Gujarat Education Cess Rules, 1962, submitted that personal hearing before finalisation of objection was necessary and without giving personal hearing the impugned Resolution (Annexure : F) dated 31.1.2001 is passed by the respondent No.3, hence it is in violation of principle of natural justice and therefore it may be quashed and set aside.

5. Learned Counsel Shri Panchal appearing for the respondent No.3 had to concede that no personal hearing was afforded before passing the impugned Resolution by the respondent No.3 - Talod Municipal Borough.

6. In view of the above, this petition has to be allowed and accordingly it is allowed. The impugned resolution (Annexure : F) is hereby quashed and set aside. However, it is made clear that the respondent No.3 will be at liberty to pass appropriate resolution after extending the opportunity of hearing to the person concerned. With this observation and direction this petition is allowed. Rule made absolute with no order as to costs.

sd/-

Date : June 28, 2002 (B.J.Shethna, J.)

sas